

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MR. MICHAEL B. WOOLMAN,)
)
)
Plaintiff,)
)
)
v.)
)
TABITHA, and HOSPIS & HEALTH)
CARE SERVICES,)
)
)
Defendants.)

4:13CV3116

**MEMORANDUM
AND ORDER**

Plaintiff filed his Complaint in this matter on June 11, 2013. (Filing No. [1](#).) Plaintiff has previously been given leave to proceed in forma pauperis. The court now conducts an initial review of the Complaint to determine whether summary dismissal is appropriate under [28 U.S.C. § 1915\(e\)\(2\)](#).

I. SUMMARY OF COMPLAINT

Plaintiff filed his Complaint against “Tabitha, Hospis & Health Care Services.” (Filing No. [1](#) at CM/ECF p. 1.) Plaintiff is a nonprisoner who resides in Lincoln, Nebraska. (*Id.* at CM/ECF p. 2.) Plaintiff’s Complaint is entitled a “Stipulation for Protective Order.” (*Id.* at CM/ECF p. 6.) In it, Plaintiff alleges that the “parties” have stipulated for “an order pursuant to Fed. R. Civ. P. 26(c).” (*Id.*) Further, Plaintiff states that his “current job” is “Attorney At Law,” and he also states that he submits himself “to the jurisdiction of the United States District Court for the District of Nebraska for the purpose of otherwise enforcing or providing relief relating to Protective & Restraining Order.” (*Id.* at CM/ECF p. 11.) The Complaint contains no allegations against the defendant or any individual.

II. APPLICABLE LEGAL STANDARDS ON INITIAL REVIEW

The court is required to review in forma pauperis complaints to determine whether summary dismissal is appropriate. *See 28 U.S.C. § 1915(e)*. The court must dismiss a complaint or any portion thereof that states a frivolous or malicious claim, that fails to state a claim upon which relief may be granted, or that seeks monetary relief from a defendant who is immune from such relief. *28 U.S.C. § 1915(e)(2)(B)*.

Pro se plaintiffs must set forth enough factual allegations to “nudge[] their claims across the line from conceivable to plausible,” or “their complaint must be dismissed” for failing to state a claim upon which relief can be granted. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 569-70 (2007); *see also Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1950 (2009) (“A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.”). Regardless of whether a plaintiff is represented or is appearing pro se, the plaintiff’s complaint must allege specific facts sufficient to state a claim. *See Martin v. Sargent*, 780 F.2d 1334, 1337 (8th Cir. 1985). However, a pro se plaintiff’s allegations must be construed liberally. *Burke v. North Dakota Dep’t of Corr. & Rehab.*, 294 F.3d 1043, 1043-44 (8th Cir. 2002) (citations omitted).

III. DISCUSSION OF CLAIMS

Federal Rule of Civil Procedure 8 requires that pleadings contain “short and plain statement[s]” of the grounds for the court’s jurisdiction and of the claim showing that the Plaintiff is entitled to relief. Fed. R. Civ. P. 8. Even when liberally construed, Plaintiff’s Complaint raises no claims and makes no allegations against the defendant in this matter. (Filing No. 1.) Thus, Plaintiff’s Complaint fails to state a claim upon which relief may be granted.

However, on the court’s own motion, Plaintiff shall have 30 days from the date of this Memorandum and Order to file an amended complaint that sufficiently

describes his claims against the defendant. Plaintiff should be mindful to explain what the defendant did to him, when the defendant did it, how the defendant's actions harmed him, and what specific legal right Plaintiff believes the defendant violated. If Plaintiff fails to file an amended complaint in accordance with this Memorandum and Order, Plaintiff's claims against the defendant will be dismissed without prejudice and without further notice. Accordingly,

IT IS THEREFORE ORDERED that:

1. Plaintiff shall have until 30 days from the date of this Memorandum and Order to amend his Complaint to clearly state a claim upon which relief may be granted against the defendant in accordance with this Memorandum and Order. If Plaintiff fails to file an amended complaint, Plaintiff's claims against the defendant will be dismissed without further notice.
2. The Clerk of the court is directed to set a pro se case management deadline in this case using the following text: Check for amended complaint on October 17, 2013.
3. Plaintiff shall keep the court informed of his current address at all times while this case is pending. Failure to do so may result in dismissal without further notice.

DATED this 17th day of September, 2013.

BY THE COURT:

Richard G. Kopf
Senior United States District Judge

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